IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.04.2018

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.8546 of 2018 and WMP.No.10481 of 2018

S.Vishnupriya .. Petitioner

Versus

1.The Secretary to Government
Housing and Urban Development Department
St.George Fort,
Secretariat, Chennai-600 009.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.

3.The Zonal Officer, Zone-VIII
Greater Chennai Corporation
Door No.36B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar, Chennai-600030.

4.The Executive Engineer, Zone-VIII
Greater Chennai Corporation,
Door No.36B, 2nd Cross Street,
Pulla Avenue, Shenoy Nagar, Chennai-600030.

5.The Assistant Executive Engineer,
Unit-22, Zone-VIII,
Greater Chennai Corporation,
Chennai Battai Street,
Villivakkam, Chennai-600 049. .. Respondents

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PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the notice No.Region Central/TPENF/1374/2008 dated 02.03.2018 of the fourth respondent and quash the same and consequently forbearing the respondents their men, subordinates, and persons claiming through them from interfering with the peaceful possession by way locking and sealing the petitioners property at Plot No.112, AH Block, 4th Street, Shanthi Colony, Anna Nagar, Chennai-600 040.

For Petitioner :Ms.Y.Kavitha
For Respondents :Mr.R.Udhayakumar, AGP for R1
Mr.C.Ravichandran for R2 to R5

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

By consent, the writ petition is taken up for final disposal. Mr.R.Udhayakumar, learned Additional Government Pleader accepts notice on behalf of 1st respondent and Mr.C.Ravichandran, learned counsel accepts notice on behalf of respondents 2 to 5.

2. The petitioner claims that her husband was the bonafide purchaser of the property through a registered Sale Deed bearing no.3795 of 2017, dated 08.09.2017 registered on the file of the Sub Registrar Office, Anna Nagar and claims that the building has been constructed in

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accordance with the approved plan / building permission. The petitioner would further aver that to her shock and surprise, the official of the Corporation of Chennai along with police officials came to the premises on 02.03.2018 and tried to put up lock and seal of the premises and it is the case of the petitioner that she purchased the property in the name of her husband by availing Housing Loan from the Life Insurance Corporation of India to a tune of Rs.1,40,00,000/- and she is also residing along with her family.

3. The learned counsel appearing for the petitioner has invited the attention of this Court to the impugned De-occupation notice dated 02.03.2018 and submitted that even assuming there were set back violation and deviation, it is within the condonable limits. The petitioner, challenging the legality of the said notice, has also filed an appeal / special revision under Section 80-A of the Town and Country Planning Act, 1971, along with petition for stay to the 1st respondent on 05.03.2018 and despite pendency of the same, steps are being taken to lock and seal the premises and prays for appropriate orders.

4. Per contra, the learned counsel appearing for the 2nd respondent has drawn the attention of this Court to the impugned De-occupation notice

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dated 02.03.2018 and would submit that since violations have been noted, action has been taken strictly in accordance with law.

5. This Court has carefully considered the rival submission and also perused the materials placed before it.

6. The fact remains that the petitioner is in occupation of the dwelling units with her family and challenging the De-occupation notice dated 02.03.2018, she has filed an appeal/special revision under Section 80 A of the Town and Country Planning Act, 1971 before the 1st respondent.

7. This Court taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner in the said appeal/special revision, directs the 1st respondent to entertain the appeal/special revision, if the papers are otherwise in order and the 1st respondent / delegated official shall take up the petition for stay initially and give a disposal in accordance with law within a period of four weeks from the date of entertainment of the appeal and till such time, the respondents 2 to 5 shall defer further proceedings in terms of the impugned De-occupation notice dated 02.03.2018. It is also open to the 1st

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respondent/delegated official to take up the main revision/appeal itself and give disposal on merits and in accordance with law within a period of twelve weeks from the date of entertainment of the same and communicate the decision taken to the petitioner. It is also made clear that till the disposal of the appeal / special revision, the petitioner shall not create any third part right in respect of the site/superstructure in question and shall not alter the physical features also.

8. It is also brought to the knowledge of this Court by the learned counsel appearing for the petitioner that electricity as well as the water supply and sewerage connection has been disconnected to the premises in question. In the light of the same, the said amenities have to be restored forthwith, subject to norms.

9. The writ petition stands disposed of with the above direction. No costs. Consequently connected miscellaneous petition is closed.

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[M.S.N.,J] [P.R.M., J]
11.04.2018

Index : No
Internet :Yes
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Note:Issue order copy on 13.04.2018.

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M.SATHYANARAYANAN.,J,
and
P.RAJAMANICKAM.,J,

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To

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